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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,157	10/12/2000	John J. Sic	19281-000800US	8624
20350	7590	07/16/2007		
TOWNSEND AND TOWNSEND AND CREW, LLP			EXAMINER	
TWO EMBARCADERO CENTER				KHATRI, ANIL
EIGHTH FLOOR			ART UNIT	PAPER NUMBER
SAN FRANCISCO, CA 94111-3834			2191	
			MAIL DATE	DELIVERY MODE
			07/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/687,157	SIE ET AL.	
<b>Examiner</b>	<b>Art Unit</b>		
Anil Khatri	2191		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 5/17/07.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,2,4-15 and 17-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,2,4-15 and 17-22 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_ .  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

***Response to Amendment***

1. This action is in response to the request for reconsideration filed on 5/17/07.
2. As per applicant request claims 1-2, 4-15 and 17-22 has been considered but they are not persuasive.
3. Claims 1, 2, 4-15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Downs et al* USPN 6,574,609 taken with *Ellis et al* USPN 7,051,360.

**In remarks applicant argues,**

- I. Receiving a command from the content distributor to store the content at the user location before a user specifically request the content wherein the content comprises at least one of a video program or audio program".
- II. Commanding the user location to store the content from the content distributor without a user associated with the user location specifically requesting the content and sending the content to the user location for storage before a user specifically request the wherein the content comprise at least one of a video program or an audio program".

**In response to applicant arguments,**

- I. It was noted that cited art fairly suggest receiving a command from the content distributor to store the content at the user location before a user specifically request the content wherein the content comprises at least one of a video program or audio program (see *Ellis et al*, columns 2-3, lines 64-67 and 1-17, A default program guide language attribute may also be stored by the

program guide. The default program guide language attribute may, for example, be preprogrammed into the program guide or supplied as program guide data. Default program languages for individual programs may also be supplied as program guide data. The program guide may also provide users with an opportunity to select an alternate language in which program guide display screen text is displayed and programming audio played. For example, the user may select Spanish as a primary language and English as an alternate language. In another suitable approach, the program guide may pick an alternate language based on the primary language selected by the user. If the user selects Canadian English for the primary language, for example, the program guide may select U.S. English as an alternate language. As used herein, "selected language" is intended to include a primary language selected by the user, a secondary language selected by the user or the program guide, or any suitable combination thereof. Therefore, the examiner interprets that by default program is given before users request so that user can choose from. Thus, limitations are met by the references.

II. It was also noted that cited reference fairly suggest commanding the user location to store the content from the content distributor without a user associated with the user location specifically requesting the content and sending the content to the user location for storage before a user specifically request the wherein the content comprise at least one of a video program or an audio program (see *Downs et al, column 3, lines 56-67*, The metadata and/or the usage condition data are altered in order to form promotional data, and the promotional data is transferred from the electronic store to a customer's system. In one preferred method, the content data is encrypted with a first encrypting key before being transferred to the content host.

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The first encrypting key is encrypted with a second encrypting key, and the encrypted first encrypting key is transferred along with the metadata and usage condition data to the electronic store. Additionally, the encrypted first encrypting key is transferred along with the promotional data to the customer's system and Ellis et al teaches columns 2-3, lines 64-67 and 1-17, A default program guide language attribute may also be stored by the program guide. The default program guide language attribute may, for example, be preprogrammed into the program guide or supplied as program guide data. Default program languages for individual programs may also be supplied as program guide data. The program guide may also provide users with an opportunity to select an alternate language in which program guide display screen text is displayed and programming audio played. For example, the user may select Spanish as a primary language and English as an alternate language. In another suitable approach, the program guide may pick an alternate language based on the primary language selected by the user. If the user selects Canadian English for the primary language, for example, the program guide may select U.S. English as an alternate language. As used herein, "selected language" is intended to include a primary language selected by the user, a secondary language selected by the user or the program guide, or any suitable combination thereof. Therefore, the examiner interprets that by default program is given before users request so that user can choose from). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate processing the command sent from the user and distribute contents to the user before user request for. The modification would have been obvious because one of ordinary skill in the art would have been motivated to combine teaching distributing contents to the user before as default and store it prior to user's request for and storing into

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his/her machine and therefore, it can be played/seen as needed. Thus, limitations are met by the reference.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ANIL KHATRI  
PRIMARY EXAMINER